

REMARKS

This reply is submitted pursuant to 35 U.S.C. §132 and 37 C.F.R. §1.111. The Office Action was carefully considered by applicant(s) and undersigned attorney. Reconsideration is respectfully requested.

As the Office Action was "Final", this reply is submitted with a Request for Continuing Examination (RCE) under the provisions of 37 C.F.R. §1.114.

1. Summary of the Office Action.

Claims 1 and 3-7 were pending.

Claims 1 and 3-7 stand rejected under 35 U.S.C §112, second paragraph.

Claims 1 and 3-7 stand rejected under 35 U.S.C §103(a) over Peleg (US 4,837,990) in view of Gilchrist (US 3,765,134).

2. Discussion.

Claim Objections

Claim 6. This claim was objected to as being informal. The examiner is thanked for pointing out the informal language. "AMEND?" is a typographical error and it has been removed by amendment. Withdrawal of the objection is believed to be in order.

Claim Rejections - 35 USC §112, Second Paragraph

Claim 1. This claim was rejected under 35 USC §112, second paragraph. The claim has been amended to remove “and” in the term –movable rope and anchorage points--. The intended term was –movable rope anchorage points--. Applicant’s attorney apologizes for this error. It appears that the error may have created confusion as to the meaning of the claimed invention and resulted in citation of the Gilchrist reference. Withdrawal of the rejection is respectfully requested.

Claim Rejections - 35 USC §102-103

Claim . This claim was rejected under 35 USC §103(a) as being obvious over Peleg in view of Gilchrist. The claim is amended to clarify the definition of the invention. It is believed that the patentable distinctions may now be appreciated. Importantly, the invention requires moveable rope anchorage points.

As set out in Claim 1, the invention comprises a series of legs each of which carries an associated cover support member. A bracket connects the cover support member to the leg. Each bracket can be secured or attached to the associated leg in a range of positions, i.e. at a range of heights, thereby permitting the cover support member to be supported by the leg at a range of heights. The bracket includes a (movable) rope anchorage point. Thus, as the bracket is moved to adjust the height at which the cover support member is supported, so the rope anchorage point is also moved to correspondingly change the height at which it is positioned. Such movement of the rope anchorage point at the same time as the cover support member is moved avoids having to

remove and subsequently re-attach the anchorage ropes used to hold the cover in position, in use. Consequently, the operation of adjusting the height of the tunnel is simplified.

The Examiner held that Peleg discloses the provision of movable rope anchorage points associated with the brackets. Applicant respectfully submits that this is simply not the case. Peleg does not use ropes to anchor the cover in position and so does not include any rope anchorage points, whether movable or fixed, and so to suggest that it discloses movable rope anchorage points associated with the brackets is simply incorrect.

Applicant also submits that Peleg does not disclose, suggest or render obvious the claim requirement that the height at which the cover support member is secured to the associated leg member by the bracket to be adjustable with the cover in situ. Paragraph 5 of the Section 1.132 Declaration of Thomas Corbett of record explains that the device disclosed by Peleg would not be capable of being adjusted in situ because the overlapping portions of adjacent laterally oriented covers strips (6) would be pulled apart and form gaps if height adjustment was attempted after set up.

Applicant further submits that, in view of the clarifying amendment of claim 1, Gilchrist is not relevant. The claim does not recite a movable rope. Additionally, applicant does not agree that Gilchrist discloses ropes at items 5 and 6. Column 5, lines 14-28 describe these items as "struts". And they are adjusted via turnbuckles 5a and 6a. Again, applicant's attorney regrets confusion on this point due to the error in the amendment submitted in the first Reply suggesting that the invention had movable ropes.

Since the structure and function of the claim is not fully shown, suggested or made obvious by the applied art, withdrawal of the rejection is believed to be warranted and is respectfully requested.

Remaining Claims. The remaining dependent claims each adds at least one limitation to the elements of its base claim, and is therefore deemed to be allowable with such base and any intervening claim, at least for this reason.

3. Conclusion.

The pending claims are believed to be patentable for the reasons stated above. The amendments are believed to be supported by the specification, claims and drawings as filed. It is believed that this case is in a condition for allowance. Reconsideration and favorable action are respectfully requested.

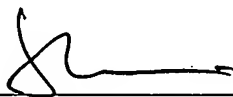
Should the Examiner believe that telephone communication would advance the prosecution of this case to finality, he is invited to call at the number below.

It is respectfully requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time under 37 CFR 1.136(a), provided a Petition is not submitted separately.

Please charge any fee due not paid by a check or credit card provided herewith, and/or charge any underpayment in any fee, and/or credit any overpayment in fee, to Deposit Account No. 19-2381.

ANY FEES DUE ARE CALCULATED AS FOLLOWS:		<u>NUMBER</u>	<u>FEE</u>
TOTAL Claims Remaining over that Previously Paid:		None	\$0
INDEPENDENT Claims Remaining over that Previously Paid:		None	\$0
	SUM Claim Fees:		\$0
EXTENSION Fees:			\$65
OTHER Fees:			\$405
<u>TOTAL AMOUNT (if any)</u>			\$470
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<input checked="" type="checkbox"/> Paid by enclosed Credit Card Payment Form(s) PTO-2038.			

Respectfully submitted,



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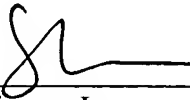
REQUEST FOR EXTENSION OF TIME

Pursuant to 37 C.F.R. 1.136(a), Applicant(s) requests that a 01 month extension be granted in which to file the attached communication from the applicant(s).

A \$ 65 payment, for a ☒ small ☐ large entity, is enclosed for the fee required under 37 CFR 1.17.

Please charge any additional or underpayment in fee due, or credit any overpayment, to Deposit Account No. 19-2381.

Respectfully submitted,



Date: 7-1-09

Joel D. Skinner, Jr.
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